IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4385 of 2006()

CRA.18/2000 of ADDL. SESSIONS COURT , THALASSERY
CC.5/1996 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TALIPARAMBA

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REVN. PETITIONER/APPELLANT/ACCUSED:

CHATHANKANDY USMAN,
S/O. MOOSA, CHATHANKANDY HOUSE,
(PO) CHENGALAI, THALIPARAMBA TALUK,
KANNUR DISTRICT.

BY ADV. SRI.PROMY KAPRAKKATT

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:
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1. C. NARAYANAN,
S/O. KANNAN, MALLIKKUNNEL HOUSE,
(PO) KOYYAM, (VIA) VARIMBAM,
KANNUR DISTRICT.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.BLAZE K.JOSE
R2 BY PUBLIC PROSECUTOR ADV. SHRI KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P.No. 4385 OF 2006

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Dated this the 7h December, 2006

O R D E R

The petitioner was found guilty of the offence under section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for one year. He was also directed to pay fine of Rs. 5,000/- and in default of payment of fine, to undergo simple imprisonment for three months. The appeal filed by the petitioner was dismissed confirming the conviction and sentence .

2. Heard counsel for the petitioner as well as the counsel for the first respondent . The petitioner is now undergoing imprisonment . It is submitted by the learned counsel for the petitioner, on instructions from the petitioner, that the petitioner is prepared to deposit the amount covered by the cheque, within a period of two months. It is submitted by the counsel that since the imprisonment for a period of one year is too harsh. It is pointed out that at present, there is no direction to pay compensation

amount as per the judgment of the courts below and that if compensation is awarded, that would redress the grievances of the first respondent/ complainant .

3. Taking note of the facts and circumstances of the case, I am inclined to accept the submission of the counsel for the petitioner and to reduce the sentence of imprisonment as imprisonment till the rising of the court. However, the petitioner shall pay a sum of Rs.40,000/- (Rupees forty thousand only) as compensation to the first respondent/cm within a period of two months.

4. In the result, the Crl. Revision Petition is allowed in part, in the manner indicated below:

i) The conviction of the petitioner under section 138 of the Negotiable Instruments Act is confirmed.

ii) The sentence of imprisonment is reduced to imprisonment till the rising of the court.

iii) The sentence to pay fine of Rs.5,000/- is set aside.

iv) The petitioner shall pay a sum of Rs.40,000/- (Rupees forty thousand only) to the complainant as compensation under section 357(3) of the Code of

Criminal Procedure and in default of payment of compensation, he shall undergo simple imprisonment for a period of three months.

v) However, the petitioner is granted two months' time to pay the amount of compensation .

The petitioner shall be released from the jail forthwith, if his detention is not required in any other case.

K.T. SANKARAN,
JUDGE.

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